

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.125 of 2022**

Arising Out of PS. Case No.-12 Year-2021 Thana- MAHILA PS District- Aurangabad

Vishal Chandrawanshi @ Vishal Kumar Singh S/O Manoj Chandrawanshi @
Manoj Kumar Singh R/O Village- Pipardih, P.S.- Deo, District- Aurangabad
(Bihar), Through His Natural Guardian His Father Manoj Chandrawanshi S/O
Suraydeo Singh.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjit Kumar, Advocate
For the Respondent/s : Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 13-01-2023 Heard learned counsel appearing on behalf of the

petitioner/revisionist and learned APP appearing on behalf of the

State through virtual Court proceedings.

The present revision application is being preferred
against judgement dated 30.11.2021 passed in Criminal Appeal
(Juvenile) No. 20/21 /26/21 by the court of learned the Special
Judge (Children Court), Aurangabad cum Additional District
and Sessions Judge 1st Aurangabad, in Mahila P.S. Case No.
12/2021 in connection with G.R. No. 28/2021 and J.J.B.
744/2021 whereby and whereunder the learned Court has
rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 16 years 27
days on the alleged date of occurrence i.e. 26.08.2021, is named



in F.I.R., and is in custody/observation home since 14.05.2021.

The allegation against petitioner/revisionist is to commit rape upon the informant/victim alongwith three other co-accused persons.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that it is admitted position that victim was in love affair with petitioner/revisionist. It is further submitted that statement of victim was recorded under Section 164 of the Cr.P.C. in which she has not named the petitioner and not alleged any torture or sexual assault against petitioner/revisionist. It is pointed out that nothing surfaced from medical examination of the victim, which may suggest that victim was subjected to gang rape, as alleged. It is further submitted that petitioner/revisionist has no criminal antecedent and also SIR (Social Investigation Report) suggest nothing adverse against him.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that father of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that he will take care of the petitioner/revisionist and shall ensure his studies as well as that he would not fall in bad company and would take all possible care to connect him



with the mainstream of the society.

Learned APP for the State, while opposing the prayer for bail of the petitioner/revisionist, submitted that there is specific allegation of rape against petitioner/revisionist. However, he has not pointed out any adverse material from the social investigation report.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 16 years 27 days approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, he has no criminal antecedent and the social investigation report of the petitioner is not showing any adverse material against him so as to dissuade this court for granting release of the petitioner on bail, as also that the petitioner has remained in the Observation Home for about two years and his father is ready to stand as a surety and furnish an undertaking that if the petitioner is released on bail, he will take care of the study of the petitioner and shall ensure that he does not fall in bad company and, in case, the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station as also following the spirit of section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and in view



of the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar and Ors. Vs. The State of Bihar** reported in **2019 (4) PLJR 833** that classification of the offences under the bailable and non-bailable sections would not be relevant for the purpose of grant of bail to a juvenile and the prayer for bail of a juvenile may be rejected only under one of the three conditions as under:-

- “(i) The release is likely to bring that person into association with any known criminal;
- (ii) The release is likely to expose the said person to moral or physiological danger; and
- (iii) The release would defeat the ends of justice.”

Accordingly, this court sets-aside the impugned order and directs release of the petitioner on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Aurangabad in connection with Mahila P.S. Case No. 12 of 2021.

One of the sureties should be the father of the petitioner and he will also furnish an undertaking in terms stated here-in-above.

The Probation Officer shall keep on visiting the place



of the petitioner and shall submit periodical report to the Juvenile Justice Board (J.J.B.), Aurangabad regarding conduct of the petitioner. If found anything adverse against this petitioner, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J.)

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